



SF 384 – Law Enforcement Equipment Removal, Criminal Penalty (LSB 1927SV)

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Fiscal Note Version – New

Requested by Senator Charles Schneider

Description

Senate File 384 creates a new offense, removal of an officer's communication or control device, and provides a graduated system of penalties for the offense. This Bill also changes the focus of the crime of interference with official acts from injuries inflicted by the defendant to injuries sustained by the official.

Background

Correctional and Fiscal Information

- The new offense, removal of an officer's communication or control device, defines "officer" as a correctional officer or a person with a professional permit to carry a weapon. The correctional and fiscal impact cannot be estimated due to a lack of data. This Bill provides penalties ranging from a simple misdemeanor to a Class "D" forcible felony, depending on the circumstances of the crime. The Class "D" forcible felony has a mandatory term of at least one year in State prison. The average length of stay in prison for this offense is 21.5 months.
- Current law provides for a graduated system of penalties for interference with official acts, ranging from a simple misdemeanor to a Class "C" felony depending on the circumstances of the crime.
- According to the Justice Data Warehouse, in FY 2012 there was one charge for Class "D" felony interference with official acts involving injury that resulted in a conviction not-as-charged (usually for a lesser offense). During FY 2012, there was one charge for a Class "C" felony and 59 charges for aggravated misdemeanor interference with official acts involving injury that resulted in convictions not-as-charged.
- Offenders convicted of a simple misdemeanor offense are not supervised in Iowa's corrections system. They usually are sentenced to a financial penalty or community service, or some combination thereof.
- The impact on the Judicial Branch operating budget is the case cost difference of a simple misdemeanor (\$28) and an aggravated misdemeanor (\$209) or a Class "D" felony (\$427).
- The impact on the indigent defense budget is the case cost difference between a simple misdemeanor (\$300) and an aggravated misdemeanor or Class "D" felony (\$1,200).
- According to the Justice Data Warehouse, the Criminal and Juvenile Justice Planning Division (CJJPD), and the Department of Corrections, the following are estimates for sentencing, length of stay by offense class, and costs for interference with official acts:

Criminal Justice System Information

Conviction Offense Class	Percent Sentenced to State Prison	Avg Length of Stay in Prison	Marginal Cost Per Day	Percent Sentenced to Probation	Avg Length of Stay on Probation	Avg Length of Stay on Parole	Average Cost per Day for Prob/Parole	Percent Sentenced to County Jail	Avg Length of Stay in County Jail	Marginal Cost Per Day*
Aggravated Misdemeanor	9.9%	9.0 months	\$17.60	45.6%	20.4 months	5.5 months	\$3.66	48.9%	28 days	\$15.00
Class "D" Felony	20.0%	21.2 months	\$17.60	80.0%	33.9 months	12.5 months	\$3.66	0.0%	0	\$15.00

For aggravated misdemeanor convictions, the percent sentenced exceeds 100.0% (104.4%) because certain offenders receive a jail sentence and a probation sentence.

Minority Data Information

The table below shows the FY 2012 offender-based convictions for interference with official acts, according to the Iowa Court Information System (ICIS). Minority offenders are disproportionately convicted compared to their percentage of the Iowa population.

FY 2012 Convictions for Interference With Official Acts

Conviction Offense Class	Percent White	Percent Black	Percent Hispanic	Percent Native American	Percent Asian	Percent Other or Unknown
Simple Misd.	65.0%	27.2%	5.3%	0.9%	0.8%	0.8%
Serious Misd.	58.3%	41.7%	0.0%	0.0%	0.0%	0.0%
Aggravated Misd.	59.9%	33.6%	5.3%	0.7%	0.0%	0.5%
Total Convictions	64.6%	27.6%	5.2%	0.9%	0.9%	0.8%

The minority impact of the new offense, removal of an officer's communication or control device, cannot be estimated due to a lack of data. Refer to the LSA memo addressed to the General Assembly, [Minority Impact Memo](#), dated February 11, 2013, for information related to minorities in the criminal justice system.

Assumptions

Correctional and Fiscal Information:

- The new offense limits the definition of "officer." Also, the crime may be similar to the crime of disarming or attempting to disarm a peace officer of a dangerous weapon as defined in Iowa Code section [708.13\(2\)](#). If so, there were five convictions for that offense in FY 2012. Therefore, there may be few convictions for the new offense of removal of an officer's communication or control device.
- Refer to the [Correctional Impact Memo](#), dated February 11, 2013, for information related to costs by crime class. The memo provides a range of costs based on actual costs and length of stay plus certain assumptions. A range of costs is provided for nonviolent crimes. The new crime created in this Bill may be at the higher end of the range because it may be considered a violent crime (against a person) rather than a nonviolent crime.
- In relation to the Bill's provisions regarding interference with official acts, charge, conviction, and sentencing patterns and trends will not change over the projection period.
- Prisoner length of stay, revocation rates, plea bargaining, and other criminal justice policies and practices will not change over the projection period for the crime of interference with official acts.
- This law will become effective July 1, 2013. A lag effect of six months is assumed from the effective date of the Bill to the date of first entry of affected offenders into the correctional system for the crime of interference with official acts.

- Under this Bill, more charges will result in convicted-as-charged for the crime of interference with official acts. Approximately half of the convictions currently being convicted not-as-charged will be convicted-as-charged under this Bill.
- These will be bench trials and 50.0% of the offenders convicted will be indigent.
- There will be increases in county jail sentences for aggravated misdemeanor convictions.

Minority Data Information:

- The minority impact of the new crime cannot be estimated due to a lack of data. The crime may be similar to the crime of disarming or attempting to disarm a peace officer of a dangerous weapon as defined in Iowa Code section [708.13\(2\)](#). If so, then 40.0% of the FY 2012 convicted offenders were Black and 60.0% were White. There may be a minority impact associated with the new crime created in this Bill.
- The impact on minorities for the change to interference with official acts will remain consistent with current data.

Summary of Impacts

Correctional Impact

There will be an estimated 30 offenders annually convicted of an aggravated misdemeanor and one offender annually convicted of a Class “D” felony under this Bill that are convicted of a simple misdemeanor under current law for the crime of interference with official acts. Admissions to the correctional system are indicated in the following table. Data in the table does not include the correctional impact of the new offense, removal of an officer’s communication or control device.

Admissions to the Correctional System

	<u>FY 2014</u>	<u>FY 2015</u>	<u>FY 2016</u>	<u>FY 2017</u>	<u>FY 2018</u>
County Jail	7	15	15	15	15
State Prison	1	3	3	3	3
Probation/Parole	7	15	18	18	18
Total	<u>15</u>	<u>33</u>	<u>36</u>	<u>36</u>	<u>36</u>

On an annual basis, admissions exceed the number convicted because certain offenders will receive a jail sentence followed by a probation sentence. The prison population increase will level off in FY 2015, with an increase of three offenders annually thereafter. The probation and parole population is expected to trend upward over the five-year projection period because the length of stay under supervision exceeds one year for both aggravated misdemeanants and Class “D” felons.

To the extent that the new crime, removal of an officer’s communication or control device, results in new convictions, the correctional impact is understated in this fiscal note.

Minority Impact

It is expected this Bill will have a disproportionate impact on minorities because approximately 34.6% of offenders convicted under the Bill’s provisions related to interference with official acts may be minorities. Under current law, these simple misdemeanor offenders are not supervised in the corrections system. This Bill shifts simple misdemeanor convictions to aggravated misdemeanor and Class “D” felony convictions. There will be an increase in the number of minority offenders supervised in the correctional system.

To the extent that the new crime, removal of an officer’s communication or control device, results in new convictions, the minority impact may be understated in this fiscal note.

Fiscal Impact

The fiscal impact for the Bill's provisions related to interference with official acts is estimated to be an increased cost to the State General Fund of \$17,000 in FY 2014 and \$69,200 in FY 2015. County jail costs are estimated to increase by \$3,000 in FY 2014 and \$6,300 in FY 2015. The costs of the new offense, removal of an officer's communication or control device, cannot be estimated.

The table below shows the impact by areas within the criminal justice system for the Bill's provisions related to interference with official acts. Costs will continue to increase in future fiscal years because the length of stay in the corrections system exceeds one year.

Fiscal Impact by Funding Source

	FY 2014			FY 2015		
	County Budgets	General Fund	Total	County Budgets	General Fund	Total
County Jail	\$ 3,000	\$ 0	\$ 3,000	\$ 6,300	\$ 0	\$ 6,300
State Prison	0	3,200	3,200	0	19,300	\$ 19,300
CBC	0	4,600	4,600	0	29,400	29,400
Judicial Branch	0	2,900	2,900		5,800	5,800
Indigent Defense	0	6,300	6,300		14,700	14,700
Total	<u>\$ 3,000</u>	<u>\$ 17,000</u>	<u>\$ 20,000</u>	<u>\$ 6,300</u>	<u>\$ 69,200</u>	<u>\$ 75,500</u>

The fiscal impact to the Judicial Branch and indigent defense reflects the increased cost for aggravated misdemeanor and Class "D" felony cases, minus the costs for simple misdemeanor cases, for the Bill's provisions related to interference with official acts.

To the extent that the new crime, removal of an officer's communication or control device, results in new convictions, the fiscal impact is understated in this fiscal note.

Sources

Department of Human Rights, Criminal and Juvenile Justice Planning Division
Department of Corrections
Office of the State Public Defender
State Court Administrator's Office

/s/ Holly M. Lyons

March 19, 2013

The fiscal note for this bill was prepared pursuant to [Joint Rule 17](#) and the Iowa Code. Data used in developing this fiscal note is available from the Fiscal Services Division of the Legislative Services Agency upon request.
